

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

CORTNEY DANIELS,

Plaintiff,

VS.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 1:11-CV-00806

OPINION & ORDER
[Resolving Doc. No. 1, 23]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On April 25, 2011, Plaintiff Courtney Daniels filed a complaint seeking review of the Defendant Commissioner of Social Security's decision to deny her application for disability benefits. [Doc. 1.] The matter was referred to Magistrate Judge Kathleen B. Burke under Local Rule 72.2. On May 7, 2012, Magistrate Judge Burke issued a Report and Recommendation recommending that this Court reverse the Commissioner's decision. [Doc. 23.] The Commissioner filed a response on May 21, 2012 stating that he will not file an objection to the Report and Recommendation. [Doc 24.]

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the magistrate's report. *Thomas v. Arn*, 474 U.S. 140, 145 (1985); *United*

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States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate judge's report without review. *See Thomas*, 474 U.S. at 149.

In this case, neither party has objected to the Magistrate Judge's recommendation. Additionally, having independently reviewed the record, the Court agrees with Magistrate Judge Burke that the Administrative Law Judge failed to provide good reasons for not affording the opinion of the Plaintiff's treating physician controlling weight, and that the ALJ's Step Five hypothetical did not adequately incorporate the Plaintiff's mental limitations. Accordingly, the Court **ADOPTS** in whole Magistrate Judge Burke's Report and Recommendation and incorporates it fully herein by reference, **REVERSES** the Commissioner's decision, and **REMANDS** this case for proceedings consistent with the Report & Recommendation.

IT IS SO ORDERED.

Dated: August 13, 2012

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE